

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

FERNANDO GALLEGOS,

Petitioner,

vs.

ISIDRO BACA, *et al.*,

Respondents.

Case No. 3:15-cv-00254-RCJ-VPC

**ORDER**

Petitioner Fernando Gallegos has submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 1-1) and has now paid the filing fee (*see* ECF No. 4).

Petitioner has also submitted a motion for appointment of counsel (ECF No. 1-2). There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). Here, it appears that the claims may be

1 somewhat complex. Moreover, petitioner is serving a life sentence without the possibility of parole for  
2 first-degree murder. Accordingly, petitioner's motion for appointment of counsel is granted.

3 **IT IS THEREFORE ORDERED** that the Clerk **DETACH** and **FILE** the petition (ECF No.  
4 1-1).

5 **IT IS FURTHER ORDERED** that the Clerk **DETACH** and **FILE** petitioner's motion for  
6 appointment of counsel (ECF No. 1-2).

7 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel (ECF No.  
8 1-2) is **GRANTED**.

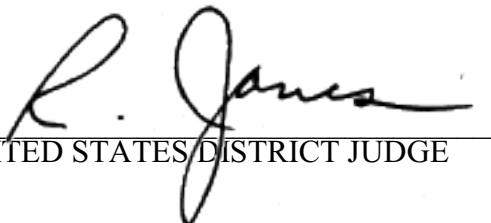
9 **IT IS FURTHER ORDERED** that the Federal Public Defender for the District of Nevada  
10 ("FPD") is appointed to represent petitioner.

11 **IT IS FURTHER ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** the FPD  
12 a copy of this order, together with a copy of the petition for writ of habeas corpus (ECF No. 1-1). The  
13 FPD shall have thirty (30) days from the date of entry of this order to file a notice of appearance or to  
14 indicate to the court its inability to represent petitioner in these proceedings.

15 **IT IS FURTHER ORDERED** that the Clerk shall **ELECTRONICALLY SERVE**  
16 respondents with a copy of this order. Respondents shall enter a notice of appearance within ten (10)  
17 days of entry of this order.

18 **IT IS FURTHER ORDERED** that, after counsel has appeared for petitioner in this case, the  
19 court will issue a scheduling order, which will, among other things, set a deadline for the filing of a first  
20 amended petition.

21  
22 DATED: This 9<sup>th</sup> day of November, 2015.

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24   
25 UNITED STATES DISTRICT JUDGE  
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